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Summary record of the 3481st meeting
Held at the Palais Wilson, Geneva, on Tuesday, 3 April 2018, at 10 a.m.

Chair: Mr. Iwasawa

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The meeting was called to order at 10.05 a.m.

Organizational and other matters, including the adoption of the report of the Working Group on Communications (*continued*)

Draft general comment No. 36 on article 6 of the Covenant (Right to life) (*continued*) (CCPR/C/GC/R.36/Rev.7)

1. **The Chair** invited the Committee to resume the second reading of its draft general comment No. 36 on article 6 of the Covenant (Right to life) at paragraph 10, which had been left in abeyance at a previous meeting.

Paragraph 10 (*continued*)

2. **Mr. Shany** (Rapporteur for the general comment) said that paragraph 10 set out the obligation of States parties to prevent suicide while granting them some degree of discretion in extreme end-of-life situations. The paragraph reflected the fact that, in the past, the Committee had carved out an exception to the obligation to prevent suicide, or had at least been willing to consider the possibility of such an exception, for terminally ill patients who wished to die with dignity.

3. The Committee had discussed the first sentence, which he was in favour of retaining. However, he would not object to its deletion, if the Committee so wished.

4. **Mr. Heyns** said that he too was in favour of retaining the first sentence, as it served as an introduction to the paragraph as a whole. However, he would be in favour of replacing the words "States parties should recognize that" with a less forceful expression.

5. **Mr. Shany** proposed deleting the words "States parties should recognize that".

6. **Mr. de Frouville** said that paragraph 9 of the draft general comment concerned the connection between women's right to life and the risks associated with unsafe abortions. The Committee had previously addressed the issue of unsafe abortion in many sets of concluding observations. In addition, the Committee had considered on the merits several individual communications in which termination of pregnancy had been a substantive issue.

7. Paragraph 10, by contrast, concerned two separate issues, namely suicide and assisted suicide. The Committee had addressed the first of those issues in at least seven sets of concluding observations, most frequently in the context of deprivation of liberty. In those concluding observations, the Committee had recommended that States parties should, inter alia, implement early prevention strategies and programmes and improve the identification of persons at risk of committing suicide; study and address the root causes of suicide; and ensure that suicides of persons deprived of their liberty were independently and thoroughly investigated. However, in those concluding observations, the Committee had refrained from offering an explanation of the possible causes of suicide. On that basis, he proposed that the first sentence of paragraph 10, which offered one such explanation, should be deleted.

8. The Committee had previously addressed the issue of assisted suicide in only two sets of concluding observations, namely those on the third periodic report of Switzerland and those on the fourth periodic report of the Netherlands. In both those cases, the Committee had expressed concern regarding the risks posed by assisted suicide in the context of the right to life and had recommended that efforts should be made to ensure that the practice was subject to independent or judicial oversight. The Committee should adopt the same approach in paragraph 10 and should leave wide discretion to States parties. To that end, he proposed that the third sentence should be amended to begin with the words "*Lorsqu'ils autorisent les professionnels de la médecine*" ("If they allow medical professionals"), which would require it to be merged with the following sentence. If that proposal were implemented, the Committee would be stating in purely factual terms that, in those jurisdictions in which provision had been made for assisted suicide, certain precautions should be taken.

9. **Mr. Fathalla** said that he could not accept the first and third sentences of the paragraph as they were currently drafted. States parties should bear no obligation to facilitate the termination of life. He had a different understanding of the concept of human

dignity in the context of suicide: in his view, persons at risk of suicide could be saved from committing that act if they were afforded human dignity in the form of, for example, adequate housing and education. He was prepared to consider Mr. de Frouville's proposal.

10. **Mr. Ben Achour** said that he was in favour of retaining the beginning of the first sentence, which recognized that, in the context of suicide, human dignity was of central importance to personal autonomy. He supported Mr. de Frouville's proposal regarding the third sentence, although it would not fundamentally alter the overall message conveyed in the paragraph. Mr. de Frouville's proposal would, however, make it possible for the Committee to acknowledge the reality of the situation in certain States, including Switzerland and the Netherlands, while refraining from imposing any additional obligations on States parties.

11. **Ms. Cleveland** said that she endorsed Mr. Ben Achour's comments. She maintained her support for the first sentence and for the proposals that the Rapporteur had made regarding the paragraph as a whole. It seemed to her that, if the words "may allow" were adopted instead of "should not prevent", as had been proposed by the Rapporteur at a previous meeting, it would be clear that States parties could facilitate the termination of life in certain specific circumstances but bore no obligation to do so, which would address Mr. de Frouville's concern. In her view, the deletion of the first sentence would obscure the connection between the right to life and a State party's obligation to prevent suicide.

12. **Mr. Heyns** proposed that places of detention should be mentioned in the second sentence. He supported the wording proposed by Mr. de Frouville, which had the same effect as the words "may allow" but was even less forceful.

13. **Mr. Koita**, referring to the last sentence of the paragraph, said that it was not clear to him how terminally ill patients were in a position to make a free, informed, explicit and unambiguous decision.

14. **Mr. Fathalla** said that he could support Mr. de Frouville's proposal regarding the third sentence, as it made clear that States parties bore no obligation to facilitate the termination of life. However, he could accept only the beginning of the first sentence, namely the words "While acknowledging the central importance to human dignity of personal autonomy". He proposed that those words should be retained and merged with the second sentence.

15. **Mr. Shany** said that he accepted Mr. Fathalla's proposal to merge the first two sentences and Mr. Heyns' proposal to mention places of detention.

16. **Mr. Ben Achour** said that Mr. Fathalla's proposal risked erasing the distinction drawn in the paragraph between suicide and assisted suicide, which were separate issues.

17. **Mr. Shany** said that he did not agree with Mr. Ben Achour. Mr. Fathalla's proposal was merely to remove the controversial part of the first sentence in which an explanation was offered of the possible causes of suicide.

18. **Mr. de Frouville** said that he supported Mr. Fathalla's proposal. With regard to Mr. Heyns' proposal, he suggested that the term "places of deprivation of liberty" should be used instead of "places of detention", as the former term encompassed a wider range of institutions, including psychiatric institutions.

19. **Mr. Santos Pais** said that, although he did not object to Mr. Fathalla's proposal, it risked obscuring the connection between personal autonomy and suicide.

20. **Mr. Politi** said that he supported Mr. Fathalla's proposal and Mr. Heyns' proposal, as amended by Mr. de Frouville.

21. **Mr. Shany** said that he accepted Mr. de Frouville's amendment of Mr. Heyns' proposal. However, it should be noted that, elsewhere in the draft general comment, the word "detention" had been used in a more general sense, as it had in the Committee's general comment No. 35 on article 9 (Liberty and security of person). With regard to the third sentence, he was prepared to accept the language proposed by Mr. de Frouville. The sentence would thus begin with the words "If States parties allow".

22. **Ms. Cleveland**, supported by **Mr. Fathalla**, proposed that the sentence should be reformulated to begin with the words "States parties that allow", which would still require it to be merged with the following sentence.

23. **Mr. Heyns** said that perhaps the language used could mirror that of article 6 (2) of the Covenant, which stipulated that in countries which had not abolished the death penalty, the sentence of death could be imposed only for the most serious crimes.

24. **Mr. Shany** said that he was reluctant to accept Mr. Heyns' suggestion, which would unnecessarily overcomplicate the text. He reiterated his support for the third-party proposals to describe the mediation of medical professionals in the termination of life as assistance rather than facilitation and to qualify physical or mental pain and suffering as "unbearable" rather than "severe". However, since the sentence under consideration had now been changed from a normative to a factual one, he no longer believed that the word "catastrophically" was needed to qualify "afflicted adults"; its use could suggest that unless the individuals concerned were catastrophically afflicted, no safeguards were to be put in place. The corresponding part of the sentence as amended thus far would therefore read: "States parties that allow medical professionals to provide medical treatment or the medical means in order to assist afflicted adults, such as the mortally wounded or terminally ill, who experience unbearable physical or mental pain and suffering and wish to die with dignity, must ensure the existence of robust legal and institutional safeguards."

25. **Ms. Kran**, supported by **Ms. Cleveland**, said that she endorsed the deletion of "catastrophically" because its retention would limit the application of safeguards. However, she would retain "severe" rather than replace it with "unbearable".

26. **Mr. Heyns** said that he preferred the term "unbearable". In addition, since the concept of terminally ill persons could be understood to include those who were mortally wounded, perhaps "mortally wounded" could be deleted in order to shorten the sentence.

27. **Ms. Brands Kehris**, supported by **Ms. Cleveland**, said that she preferred to keep the word "severe", since "unbearable" was a subjective term. In addition, the notion of assisting afflicted adults was a very broad one that could be interpreted in various ways; she was thus reluctant to use it.

28. **Mr. Shany** said that the ambiguity of the word "assist" was offset by the fact that the context was clearly about the wish to die with dignity; however, he had no strong preference between "facilitate the termination of life of afflicted adults" and "assist afflicted adults". He agreed that the broader term "severe" was a better option than "unbearable", given that the sentence had been recast as a factual, rather than normative, statement.

29. **Ms. Cleveland** said that she did not oppose replacing "facilitate" with "assist", but she was concerned that the deletion of "the termination of life" after "assist" made for greater, and undesirable, ambiguity.

30. **Mr. de Frouville** said that he wholeheartedly agreed with the substantive amendments made thus far. As for the linguistic changes proposed in English, it was important to ensure that they were accurately reflected in the French version of the document. However, rather than debating editorial and linguistic minutiae, the Committee should focus on discussing the ideas at the heart of the general comment.

31. **Mr. Shany** said that since in the current context there was ultimately no significant difference in meaning between "facilitate" and "assist", the original phrase "facilitate the termination of life" could be retained in order to avoid creating any French translation problems.

32. **The Chair** said that the final sentence in the paragraph would thus read: "States parties that allow medical professionals to provide medical treatment or the medical means in order to facilitate the termination of life of afflicted adults, such as the terminally ill, who experience severe physical or mental pain and suffering and wish to die with dignity must ensure the existence of robust legal and institutional safeguards to verify that medical professionals are complying with the free, informed, explicit and unambiguous decision of their patients, with a view to protecting patients from pressure and abuse". As requested by

Mr. de Frouville, the amended text would be circulated in both French and English to ensure that everyone could follow the modifications made.

33. *Paragraph 10, as amended, was adopted.*

Paragraph 11

34. **Mr. Shany** said that paragraph 11 addressed the issue of private security companies and the responsibility of States to ensure that the operations of such companies respected the right to life. It underscored the point that the privatization of security operations did not release States parties from their article 6 obligations.

35. Canada had proposed that the general comment should refer to the Montreux Document on Pertinent International Legal Obligations and Good Practices for States related to Operations of Private Military and Security Companies during Armed Conflict (the Montreux Document). He was reluctant to include such a reference because it could imply that article 6 was applicable only during armed conflict. Canada had also argued that referring to "the same remedies as would be applicable for violation committed by public officials" was equivocal; he suggested using the term "effective remedy" instead.

36. The Netherlands had expressed the view that since the firms in question fulfilled both private and governmental functions, only where force was used on its behalf did the State have to ensure compliance with the Covenant. He supported that view.

37. The Russian Federation had suggested replacing "private security forces" with "private security companies", which was feasible. It had also rightly pointed out that the mere removal of human rights violators from security companies was insufficient as a sanction. France had observed that it was impossible for States to know whether individuals employed by such companies had been involved in human rights violations.

38. The United Kingdom had suggested that a State party should remain only "responsible", not "directly responsible", for any failure to comply with article 6. He supported both that suggestion and Amnesty International's suggestion to include a reference to training in the paragraph.

39. **Mr. Heyns** said that any reference to the Montreux Document should be made in a footnote. He noted that the phrase "with the provisions of article 6" at the end of the first sentence was unnecessarily repetitive and should be deleted.

40. **Mr. Shany** said that the part of the first sentence amended in accordance with the suggestions of the Netherlands, the United Kingdom and Mr. Heyns would read "the State party is under an obligation to ensure that such employment of force actually complies with article 6 and remains responsible for any failure to comply". A footnote could be added at the end of the sentence to refer to the Montreux Document, with an indication that it related to times of armed conflict. To incorporate the suggestion made by Amnesty International, the second sentence could be amended to indicate that the State must "provide strict and effective measures of monitoring and control and ensure the existence of adequate training, in order to ensure, inter alia, that the powers granted are not misused, and do not lead to arbitrary deprivations of life".

41. **Ms. Cleveland** said that, for the sake of clarity, the first part of the second sentence should be amended to read "States parties must rigorously limit", rather than "it must rigorously limit".

42. **Mr. Politi** said that he would prefer to see a reference to specific areas of training such as international human rights law and international humanitarian law, possibly in a separate sentence at the end of the paragraph.

43. **Mr. Heyns** said that the Committee would not necessarily expect the State itself to carry out the monitoring and training. He proposed using a formulation such as "ensure that strict and effective measures ... were in place".

44. **Mr. Shany** said that he agreed with Mr. Heyns' proposal. He was, however, reluctant to be more explicit about the training required — an approach that risked implicitly excluding other areas of human rights. The word "adequate" would cover all

relevant areas. The sentence as amended would thus read: "Among other things, the State party must rigorously limit the powers afforded to private actors, and ensure that strict and effective measures of monitoring and control, and adequate training, are in place, in order to ensure, inter alia, that the powers granted are not misused and do not lead to arbitrary deprivations of life."

45. Turning to the third sentence, which referred to the exclusion from private security forces of "persons involved in serious human rights violations", he proposed inserting the words "known to have been" before the word "involved", and replacing the words "private security forces employing force" by the words "private security companies empowered or authorized to employ force".

46. **Ms. Cleveland** said that a reference to persons "known to have been involved" in human rights violations would beg the question of the State's obligation to exercise due diligence in order to determine whether they might have been so involved. She proposed rewording the start of the clause to read "States parties shall take reasonable measures to ensure".

47. **Mr. Heyns** agreed, but proposed instead a reference to "persons with a record of serious human rights violations". Noting that private security arrangements might involve partnerships, for example, rather than companies or corporations, he proposed using the words "private security providers".

48. **Mr. de Frouville** recalled that, during the first reading of the draft general comment, the point had been made that such exclusion should be based not on hearsay or reputation but on conclusions reached by due process. The wording as it stood implied the existence of a judgment or determination attesting to such involvement, which would therefore be public knowledge. There was therefore no need to stipulate "persons known to have been involved".

49. He believed that Ms. Cleveland's proposal would weaken the thrust of the sentence. In delegating certain powers to private security forces, States parties had more than an obligation of due diligence: they needed to properly satisfy themselves that members of such forces had not been involved in human rights violations. While he took Mr. Heyns' point about private security forces, he had some doubts about the word "provider"; the French equivalent, *fournisseur*, would not easily fit, for example. It might be worth aligning the Committee's usage with the Human Rights Council's current work on the subject.

50. **Mr. Shany** said that he supported Ms. Cleveland's proposal with regard to persons involved in human rights violations, but proposed replacing the words "shall take reasonable measures" by the words "must take adequate measures", in order to meet Mr. de Frouville's concern on that score. Mr. Heyns' proposal addressed only past involvement, so he suggested instead the wording "persons who have been involved", which would capture involvement in the present as well. With regard to private security arrangements, he proposed using the word "entities", as in the first sentence.

51. Turning to the fourth sentence, he said the concern had been raised that there could be legal differences between complaints brought against private actors and ones brought against the State. In order to avoid complications therefore, he proposed rewording the last part of the sentence, from "granted the same remedies" to the end, to read "granted effective remedy".

52. Based on proposals made by **the Chair** and **Ms. Pazartzis**, including one to use the singular "State party" throughout, he said that the revised sentence would read: "It must also ensure that victims of arbitrary deprivation of life by private individuals or entities empowered or authorized by the State are granted an effective remedy."

53. *Paragraph 11, as amended, was adopted.*

The meeting was suspended at 11.40 a.m. and resumed at noon.

Paragraph 12

54. **Mr. Shany** said that paragraph 12 had elicited a large number of submissions from States and civil society. Some States believed that the question of new weapons was a

matter of international humanitarian law and therefore not one for the Committee, but the Committee took the view that the subject at hand was weapons that had an impact on the right to life. Some submissions had proposed deleting all the language between square brackets, others only the words "developed and". His own view was that it would indeed be more prudent for the Committee not to address the question of the development of weapon systems, but only their implementation.

55. It had also been suggested that, in the last sentence, the Committee should avoid giving the impression that no normative framework already existed. Other points made in the submissions had included the suggestion that consideration of the impact should precede deployment, and a proposal to replace the words "lethal autonomous robotics" by the words "fully autonomous weapons systems". There had also been a suggestion that the general comment should address the use of autonomous weapons in law enforcement, but if the final sentence was retained that point would be covered by the reference to "times of peace". There had been a suggestion that the comment should state that fully autonomous weapon systems should not be deployed at all but, in line with the Committee's discussion during the first reading, he did not believe that such systems were by definition less compatible with the right to life than the alternative, namely weapons deployed by human beings on the battlefield.

56. Taking account of those submissions, he proposed adding, at the end of the first sentence, the words "prior to deployment"; replacing the words "lethal autonomous robotics" with "fully autonomous weapons systems"; maintaining the section between square brackets, with the exception of "developed and"; and rewording the final part to read "unless pursuant to a normative framework that clearly provides that their use conforms with article 6 and other existing norms of international law".

57. **Mr. Fathalla** said that it was important to take account of the fact that there was an extensive illegal arms trade and that many of the weapons so traded found their way to non-State actors. In that light, he would prefer to leave the first sentence unchanged. In the third sentence, he would prefer to retain the reference to development. The trend in reviews of existing instruments, including the Treaty on the Non-Proliferation of Nuclear Weapons, seemed to favour restricting development. The Committee ought to encourage that movement, particularly as new weapons were even more likely to be a threat to the right to life than existing ones.

58. **Mr. Heyns** said that it was important for the general comment to deal with the broader application of article 6, given that it needed to remain pertinent for 10 or 20 years in the future. It also needed to strike a balance between the notion of a complete ban on fully autonomous weapons — a position that individual Committee members might well adopt — and the fact that in general such a ban did not attract a consensus. In his view, the proposed text met those two concerns. He agreed with the proposed revision of the final sentence of the paragraph, which made the required point yet was neutral on the adequacy of the existing normative framework. That rider would also cover the question of development, and he would therefore favour retaining that reference in the final sentence.

59. **Mr. Politi** said that he did not have a strong opinion on the proposed revision to the first sentence; he agreed with the wording "fully autonomous weapons systems"; and he agreed with Mr. Heyns' comments on the revised final sentence.

60. **Mr. de Frouville** said that the Committee needed to tread carefully in dealing with a subject on which it had no experience, particularly as discussions were under way elsewhere. With regard to the first sentence, he agreed that evaluation of weapon systems' impact needed to take place prior to deployment. Referring to the proposed revision to the second sentence, however, he said that weapon systems that were indeed fully autonomous, i.e. that operated without any significant human intervention whatsoever, and with consequences that were completely incalculable, would be de facto incompatible with article 6. The paragraph should therefore not specify such systems so precisely but retain the more general reference to "lethal autonomous robotics", mentioning in addition the need for a normative framework that ensured they were used in line with article 6 and other provisions of international law.

61. The Committee should limit itself to indicating that autonomous weapons systems posed a number of complicated legal and ethical problems in relation to the right to life, without going into details or advocating a specific normative framework, which might well already exist. It would therefore be more prudent to delete the third sentence and retain only the first two. He hoped that, in future, the Committee would be able to reconsider certain issues with a greater degree of precision when it was better informed and when the debate on those issues had progressed.

62. **Ms. Cleveland** said that she supported the proposal to insert "prior to their deployment" at the end of the first sentence. Mr. de Frouville had raised an interesting question about the de facto incompatibility of "fully autonomous weapons systems" with article 6; the inclusion of that term might suggest that such systems could eventually satisfy the appropriate international normative framework. Perhaps it would be safer to use the term "autonomous weapons systems" instead.

63. She shared the concern that the reformulation of the final sentence proposed by Mr. Shany could still be understood as suggesting that there was currently no legal framework in place under international law, the Covenant or international humanitarian law that adequately regulated autonomous weapons systems. With that in mind, she proposed the following reformulation: "The Committee is of the view that such weapons systems must not be put into operation, either in times of war or in times of peace, until it is established that their use conforms with article 6 and other relevant norms of international law."

64. **Mr. Ben Achour** said that, in paragraph 12, the Committee was addressing future developments and inviting States parties to take action in the interest of the right to life, which could be construed as an attempt to establish new norms. The paradox inherent in the draft general comment was that sometimes the Committee attributed to itself the right to set new rules, even in the absence of relevant jurisprudence, and sometimes it did not, so as to avoid acting as if it were a legislative body. The Committee must codify its jurisprudence, but it must also, when necessary, decide whether it wished to lay down future norms where no jurisprudence existed. Furthermore, there existed a paradox within international law, in that according to the international framework regulating warfare, States parties had a right to improve their defence systems in the event of war or as a deterrent, and thus to develop more advanced weaponry, including lethal robotics. However, according to the international human rights framework to which the general comment belonged, they were also urged to place limitations on their development of better defence systems so as to ensure respect for the right to life. The Committee must face up to that contradiction.

65. **Mr. Fathalla** said that he supported a proposal by Al-Haq to mention the sale of arms in the first sentence. He understood acquisition to imply the purchase of arms, so an obligation should be laid down for those who sold arms, too. He supported the deletion of "fully" from "fully autonomous weapons systems", as proposed by Mr. de Frouville.

66. **Mr. Heyns** said that deleting the third sentence and retaining only the first two would leave the issue up in the air. If the Committee wished to offer some guidance in its general comment, it would have to do more than simply highlight its concerns. It was therefore important to maintain the third sentence, whether in its current formulation or in that proposed by Ms. Cleveland. He would prefer to include the "fully" in fully autonomous weapons systems, but agreed that it could be deleted, given that the final sentence made it clear that all weapons systems must comply with the international normative framework.

67. **The Chair** said that the purpose of general comments was to codify the Committee's interpretation of the Covenant, which was expressed through its jurisprudence. The Committee should therefore be prudent when addressing new issues and should refrain from setting new standards for general comments. He too was reluctant to maintain the third sentence, especially given that a number of States parties had recommended deleting it.

68. **Mr. Politi** said he agreed that because the acquisition of arms was mentioned in the first sentence, the sale of weapons should be mentioned, too. He also agreed that the third sentence should be maintained. The Committee should be prudent, however. The formulation proposed by Mr. Shany was preferable to that proposed by Ms. Cleveland, because the latter implied that a legal framework establishing the conformity of the

development and use of autonomous weapons systems with article 6 and other relevant norms of international law would soon be introduced.

69. **Ms. Brands Kehris** said that she supported the addition of a reference to the sale of weapons and the insertion of the words "prior to their deployment" at the end of the first sentence. She also agreed that the word "fully" should be deleted from "fully autonomous weapons systems". The third sentence should be retained; otherwise the Committee would be merely highlighting its concern. The formulation proposed by Mr. Shany was a sufficiently prudent solution.

70. **Mr. Muhumuza**, referring to third-party comments, said that he wondered whether it was appropriate to allow anonymous contributors to make far-reaching suggestions. Perhaps all contributors should be identified in future, thus allowing the Committee to come to a better understanding of what lay behind their suggestions.

71. **Mr. Shany** said that the Committee might wish to discuss the point of principle raised by Mr. Muhumuza in its meeting on methods of work. The point had been raised before, during the drafting of general comment No. 35. For a variety of reasons, some organizations had to maintain their confidentiality, but the members of the Committee had full access to their information. It was the Rapporteur's job to strike a balance between participation and transparency.

72. With regard to the first sentence, he was not sure why Mr. Fathalla had objected to the insertion of "prior to their deployment", which he would prefer to maintain. While it was true that autonomous weapons systems were used by other actors, the sentence specifically requested States parties not to use those weapons unless they had considered their impact on the right to life. If "prior to their deployment" was inserted, however, it would not make sense to mention the sale of weapons, because once a weapon had been sold, the seller was no longer in control of its deployment. The Committee would have to choose between the two proposed additions.

73. The argument against a complete ban on autonomous weapons systems was complicated: whereas it was true that such weapons systems did not have human compassion, they also lacked human fear and human hatred, which were sometimes factors that led to the commission of war crimes. It was also increasingly clear that autonomous weapons systems could sometimes be more precise than traditional weapons and that their judgment in many areas was not inferior to human judgment. The situation could be further complicated by the arrival of hybrid human-machine systems in the near future. He therefore agreed that it was appropriate to delete "fully" from "fully autonomous weapons systems", thus casting the net wider.

74. If the third sentence was to be amended, he would prefer to go with Ms. Cleveland's proposal. However, if the Committee chose to amend "should" to "must", it would have to remove its reference to development. He proposed amending Ms. Cleveland's proposal so that it read "unless", rather than "until", "it has been established that their use conforms with article 6 and other existing norms of international law".

75. **Mr. Fathalla** said that he objected to the insertion of "prior to their deployment" because States parties were being asked to consider the impact of new weapons on the right to life during their development. The question of the deployment of such weapons did not figure in the sentence.

76. **Mr. Heyns** said that he supported the latest formulation of the final sentence proposed by Mr. Shany, although he was unsure why the word "relevant" in the final sentence should have been changed to "existing".

77. **Ms. Cleveland** said that her proposed formulation for the final sentence spoke of "relevant", rather than "existing", norms of international law in order to allow for the development of new norms in that regard. She maintained that the use of "must", instead of "should", in the final sentence made for a stronger statement that, by implication, included development, as a weapon could not be put into operation unless it had already been established that it conformed to international law.

78. She proposed inserting the words "and sale" after "use" in the first line, rather than mentioning the sale of weapons in the context of the development of new weapons. States parties engaged in the sale of weapons should take into account what use potential buyers might make of them and should assume positive responsibilities in that regard.

79. **Mr. Politi** said that the proposal to insert "and sale" after "use" in the first sentence was interesting, but that it would only relate to existing weapons, not to new ones. The asymmetry between acquisition and sales was most pertinent in reference to new weapons. He therefore proposed an alternative formulation, which would read: "States parties engaged in the deployment and use of existing weapons and in the study, development, acquisition, sale or adoption of new weapons and means and methods of warfare must always consider their impact on the right to life."

80. **Ms. Pazartzis** said that colleagues were right to ask if the Committee was codifying its practice or straying into the development of international law. She agreed with Mr. Fathalla that the first sentence addressed the development of new weapons and the study of their impact on the right to life, which made it unnecessary to insert "prior to their deployment". The sale of weapons should be mentioned in that sentence, however. The issue of the use of such weapons was addressed in the third sentence, which, if retained, should use the formulation suggested by Mr. Shany on the basis of Ms. Cleveland's proposal. Generally speaking, the Committee should approach the paragraph with caution, because it did not have much experience in the subject matter.

81. **Ms. Brands Kehris** said that she supported Ms. Cleveland's proposal to insert the words "and sale" after "use" at the beginning in the first sentence.

82. **Mr. Heyns** said that the first sentence gave the impression that the paragraph only addressed the use of weapons during warfare. It should be made clear that the use of weapons in law enforcement was also being addressed and that, within the means and methods of warfare, the sentence specifically dealt with the conduct of hostilities. He would prefer to talk of "relevant norms" in the third sentence. In his opinion, the Committee was not setting new standards for general comments in the third sentence. It was simply reaffirming that any use of autonomous weapons systems must be done in conformity with international standards; it was not stating that international law was unacceptable or that new law must be established.

83. **Mr. Fathalla** said that he supported Ms. Cleveland's proposal to insert the words "and sale" after "use" in the first sentence, but wished to propose the additional insertion of a reference to the purchase of weapons, because the word acquisition could be construed to refer to development only.

84. **Mr. Heyns** said that article 36 of the Protocol additional to the Geneva Conventions of 12 August 1949 established that a review of compatibility with international law must take place "in the study, development, acquisition or adoption of a new weapon". The Committee might want to mirror that stipulation in the first sentence of paragraph 12, rather than implying that the consideration of the impact on the right to life of new weapons should take place only prior to their deployment.

85. **Mr. Shany**, summing up the amendments proposed so far, said that he was loath to take up Mr. Heyns' proposal for the first sentence. The "means or methods of warfare" were not limited to the conduct of hostilities and the use of weapons for law enforcement was already covered in the phrase "in times of peace". He proposed that the amended first sentence should read: "States parties engaged in the deployment, use, sale or purchase of existing weapons, and in the study, development, acquisition or adoption of new weapons, and means and methods of warfare, must always consider their impact on the right to life." The word "fully" would not be used in reference to autonomous weapons systems. The amended final sentence would read: "The Committee is therefore of the view that such weapons systems should not be developed or put into operation, either in times of war or in times of peace, unless it has been established that their use conforms with article 6 and other relevant norms of international law." At the request of the Chair, he would prepare a redrafted version of paragraph 12 for the Committee's consideration at its next meeting on the general comment.

The meeting rose at 1 p.m.